

Application No. 10/696,667

REMARKS

In view of the preceding amendments and the following remarks, Applicants respectfully request the Examiner to reconsider the patent application identified above and withdraw the present rejection. Claims 1-32 are pending in the present application, all of which stand currently rejected. Claims 2, 3, 8, 18, 21-28 and 31, 32 have been canceled.

37 C.F.R. §1.75:

The Examiner advised that, if Claim 30 is found to be allowable, then Claim 31 and 32 will be objected to as being a substantial duplicate thereof. Applicants have canceled Claims 31 and 32.

35 U.S.C. §102:

The Examiner rejected Claims 1, 2, 7 and 11 under 35 U.S.C. §102(b) over Kaplan (5,342,348). Applicants respectfully submit that the cited references fail to teach or suggest the present invention, as recited in the Claims. For example, Claim 1 includes the following limitations, among others:

an expandable stent ... having a thin wall, ... including a plurality of cells which are formed by a plurality of interconnected strut members;

a plurality of elongated removable slat members interwoven between at least two of said plurality of strut members to temporarily attach plurality of said removable slat member to said skeletal tubular member to thereby provide a cover for a major portion of the wall of said skeletal tubular member; and

a plurality of tethers each attached to one of said plurality of removable slat members in order to selectively remove any one of said removable slat members to thereby provide a selective passage for blood flow ...

Among other limitations, the cited references fail to teach or suggest an expandable stent with a plurality of elongated removable slat members interwoven between the strut members, to

Application No. 10/696,667

"thereby provide a cover for a major portion of the wall of said, said skeletal tubular member", and "a plurality of tethers each attached to one of said plurality of removable slat members".

As an example, the Kaplan reference describes a first and second "filament" (col. 3, lines 36-39) and "strands 14 and 16" (col. 11, lines 16-20) of biodegradable polymer (col. 6, lines 21-26).

The Examiner rejected Claim 18 under 35 U.S.C. §102(b) over Hoganson et al. (2003/0074049). Applicants have canceled Claim 18.

35 U.S.C. §103:

The Examiner rejected Claims 3-6, 8-10, 12-15, 21-18 and 30-32 under 35 U.S.C. §103(a) as being unpatentable over Kaplan in view of Rioux et al. (US 6,981,964).

Applicants respectfully submit that the cited references fail to teach or suggest the present invention, as recited in the Claims. The present invention is a vascular medical device for implantation in a patient's blood vessel. In contrast, the Rioux et al. reference discloses a "stent for assisting urinary release in a male patient". Regarding the Rioux et al. reference, the Examiner analogizes a "one way valve 78" which allows deflation of an "inflatable balloon 56", so that "it no longer serves as an anchor to inhibit removal of the prostatic stent 50", to the present invention. Applicants fail to understand the analogy, and believe the "one way" valve for releasing an inflated balloon anchor teaches away from the present invention. Quoting from the Rioux et al. reference:

To deflate the *inflatable balloon 56*, the *one way valve 78* is disconnected from the *prostatic stent 50* by pulling on the *removal suture 80*. After the *one way valve 78* is removed the fluid within the inflatable balloon 56 will be able to exit the prostatic stent 50 through the inflation channel 70. *With the inflatable balloon 56 deflated, it no longer serves as an anchor to inhibit removal of the prostatic stent 50*, and thus the prostatic stent 50

Application No. 10/696,667

can be removed by either pulling on the removal segment 64 or through endoscopic means.

(Rioux et al., col. 16, lines 44-53.) Accordingly, the cited combination would not result in the present invention, and the references themselves teach away from such a combination.

The Examiner rejected Claim 16, 17 and 29 under 35 U.S.C. §103(a) over Kaplan in view of Masters et al. (2006/0167540) and Rioux et al.

The Examiner concedes that "Kaplan does not disclose there is a second inner stent" and "Furthermore, Kaplan does not disclose the removable slat members have tethers attached."

The Examiner further concludes that a disclosure of biodegradable filaments or strands makes obvious biodegradable tethers attached to slat members. All of these conclusive statements regarding obviousness constitute impermissible hindsight, reconstructing the present invention by referring to the present invention.

The Examiner rejected Claim 19 under 35 U.S.C. §103(a) over Kaplan in view of Hoganson et al.

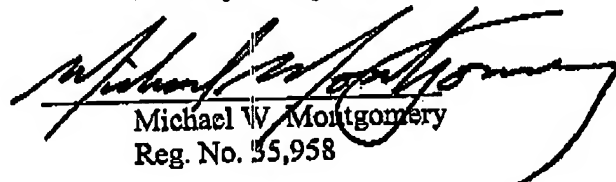
The Examiner rejected Claim 20 under 35 U.S.C. §103(a) over Kaplan in view of Hoganson et al., Masters et al. and Rioux et al.

Applicants respectfully submit that the cited reference fail to teach or suggest the present invention, for the reason set forth above.

Applicants respectfully request the Examiner to allow the present invention.

Date: June 29, 2007
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